

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 199**

FINAL READING

Introduced by Schimek, 27

Read first time January 9, 2007

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to public bodies; to amend sections 18-2420,  
2 18-2422, 18-2425, 18-2436, and 18-2439, Reissue Revised  
3 Statutes of Nebraska, and sections 18-2410, 18-2427,  
4 18-2438, and 84-1411, Revised Statutes Cumulative  
5 Supplement, 2006; to change provisions relating to  
6 municipal cooperative financing and open meetings;  
7 to harmonize provisions; and to repeal the original  
8 sections.

9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 18-2410, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           18-2410 Municipality shall mean (1) any city or village  
4 incorporated under the laws of this state, ~~or~~ any equivalent entity  
5 incorporated under the laws of another state, or any separate  
6 municipal utility which has autonomous control and was established  
7 by such a city, village, or equivalent entity or by the citizens  
8 thereof for the purpose of providing electric energy for such  
9 municipality or (2) any public entity organized under Chapter 70,  
10 article 6, and incorporated under the laws of this state for the  
11 sole purpose of providing wholesale electric energy to a single  
12 municipality which is incorporated under the laws of this state.

13           Sec. 2. Section 18-2420, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           18-2420 The governing body of each of the municipalities  
16 participating in the creation of such agency shall ~~adopt an~~  
17 ~~ordinance determining~~ by appropriate action by ordinance or  
18 resolution determine that there is a need for such agency  
19 and ~~setting~~ set forth the names of the proposed participating  
20 municipalities of the agency. Such an ~~ordinance may be adopted~~  
21 action may be taken by a municipality's governing body on its own  
22 motion upon determining, in its discretion, that a need exists for  
23 an agency. In determining whether such a need exists, a governing  
24 body may take into consideration the present and future needs  
25 of the municipality with respect to the commodities and services

1 which an agency may provide, the adequacy and suitability of the  
2 supplies of such commodities and services to meet such needs, and  
3 economic or other advantages or efficiencies which may be realized  
4 by cooperative action through an agency. Upon the adoption of an  
5 ordinance or passage of a resolution as provided in this section,  
6 the mayor, in the case of a city, ~~or~~ the chairperson of the  
7 board of trustees, in the case of a village, or the chairperson  
8 of the governing body, of each of the proposed participating  
9 municipalities, with the approval of the respective governing  
10 body, shall appoint a director who shall be an elector of the  
11 municipality for which he or she acts as director. The directors  
12 shall constitute the board in which shall be vested all powers of  
13 the agency.

14           Sec. 3. Section 18-2422, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           18-2422 The directors shall file with the Secretary  
17 of State a certificate signed by them setting forth (1) the  
18 names of all the proposed participating municipalities, (2) the  
19 name and residence of each of the directors so far as known  
20 to them, (3) a certified copy of each of the ordinances or  
21 resolutions of the participating municipalities determining the  
22 need for such an agency, (4) a certified copy of the proceedings  
23 of each municipality evidencing the director's right to office, and  
24 (5) the name of the agency. The certificate shall be subscribed and  
25 sworn to by such directors before an officer or officers authorized

1 by the laws of the state to administer and certify oaths.

2           Sec. 4. Section 18-2425, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           18-2425 After the creation of an agency, any other  
5 municipality may become a participating municipality therein  
6 upon (1) application to such agency, (2) the adoption of an  
7 ordinance or passage of a resolution by the governing body of the  
8 municipality setting forth the determination prescribed in section  
9 18-2420 and authorizing such municipality to become a participating  
10 municipality, and (3) at least a majority vote of the directors,  
11 except that an agency's bylaws may require a greater percentage  
12 of approval for such authorization. Thereupon such municipality  
13 shall become a participating municipality entitled to appoint a  
14 director or directors of such agency in the manner prescribed  
15 by section 18-2420 and to otherwise participate in such agency  
16 to the same extent as if such municipality had participated in  
17 the creation of the agency. Upon the filing with the Secretary  
18 of State of certified copies of the ordinances and resolutions  
19 described in this section, the Secretary of State shall issue an  
20 amended certificate of incorporation setting forth the names of the  
21 participating municipalities.

22           Sec. 5. Section 18-2427, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           18-2427 Upon adoption of ordinances or resolutions in  
25 accordance with section 18-2420, a petition shall be addressed to

1 the Nebraska Power Review Board stating that it is the intent  
2 and purpose to create an agency pursuant to sections 18-2426  
3 to 18-2434, subject to approval by the Nebraska Power Review  
4 Board. The petition shall state the name of the proposed agency,  
5 the names of the proposed participating municipalities, the name  
6 and residence of each of the directors so far as known, a  
7 certified copy of each of the ordinances or resolutions of the  
8 participating municipalities determining the need for such an  
9 agency, a certified copy of the proceedings of each municipality  
10 evidencing the director's right to office, a general description  
11 of the operation in which the agency intends to engage, and the  
12 location and method of operation of the proposed plants and systems  
13 of the agency.

14           Sec. 6. Section 18-2436, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           18-2436 Each participating municipality shall be entitled  
17 to appoint one director, but with the approval of each of the  
18 participating municipalities as evidenced by an ordinance or  
19 resolution of the governing body thereof, an agency's bylaws  
20 may contain a provision entitling any of the participating  
21 municipalities to appoint more than one director and specifying the  
22 number of directors to be appointed by each of the participating  
23 municipalities of the agency. The number of directors may be  
24 increased or decreased from time to time by an amendment to the  
25 bylaws approved by each of the participating municipalities as

1 evidenced by an ordinance or resolution of the governing body  
2 thereof. Each participating municipality shall at all times be  
3 entitled to appoint at least one director. Each director shall  
4 be entitled to one vote, but with the approval of each of  
5 the participating municipalities as evidenced by an ordinance or  
6 resolution of the governing body thereof, an agency's bylaws may  
7 contain a provision entitling any director or directors to cast  
8 more than one vote and specifying the number or numbers of votes  
9 such director or directors may cast. Unless the bylaws of the  
10 agency shall require a larger number, a quorum of the board shall  
11 be constituted for the purpose of conducting the business and  
12 exercising the powers of the agency and for all other purposes when  
13 directors are present who are entitled to cast a majority of the  
14 total votes which may be cast by all of the board's directors.  
15 Action may be taken upon a vote of a majority of the votes which  
16 the directors present are entitled to cast unless the bylaws of  
17 the agency shall require a larger number. The manner of scheduling  
18 regular board meetings and the method of calling special board  
19 meetings, including the giving or waiving notice thereof, shall be  
20 as provided in the bylaws. Such meetings may be held by any means  
21 permitted by the Open Meetings Act.

22           Sec. 7. Section 18-2438, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           18-2438 The board of an agency may create an executive  
25 committee the composition of which shall be set forth in the bylaws

1 of the agency. The executive committee shall have and exercise  
2 the power and authority of the board during intervals between the  
3 board's meetings in accordance with the board's bylaws, rules,  
4 motions, or resolutions. The terms of office of the members of  
5 the executive committee and the method of filling vacancies shall  
6 be fixed by the bylaws of the agency. The board may also create  
7 one or more committees to which the board may delegate such  
8 powers and duties as the board shall specify. In no event shall  
9 any committee be empowered to authorize the issuance of bonds.  
10 The membership and voting requirements for action by a committee  
11 shall be specified by the board. An agency which contracts with  
12 municipalities outside the State of Nebraska may hold meetings  
13 outside the State of Nebraska if such meetings are held only in  
14 such contracting municipalities. Meetings of any committee which is  
15 a public body for purposes of the Open Meetings Act may be held by  
16 any means permitted by the act.

17           Sec. 8. Section 18-2439, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           18-2439 An agency shall be dissolved upon the adoption,  
20 by the governing bodies of at least half of the participating  
21 municipalities, of an ordinance or resolution setting forth  
22 the determination that the need for such municipality to act  
23 cooperatively through an agency no longer exists. An agency shall  
24 not be dissolved so long as the agency has bonds outstanding,  
25 unless provision for full payment of such bonds and interest

1 thereon, by escrow or otherwise, has been made pursuant to the  
2 terms of such bonds or the ordinance, resolution, trust indenture,  
3 or security instrument securing such bonds. If the governing bodies  
4 of one or more, but less than a majority, of the participating  
5 municipalities adopt such an ordinance or resolution, such  
6 municipalities shall be permitted to withdraw from participation in  
7 the agency, but such withdrawal shall not affect the obligations  
8 of such municipality pursuant to any contracts or other agreements  
9 with such agency. Such withdrawal shall not impair the payment  
10 of any outstanding bonds or interest thereon. In the event of  
11 the dissolution of an agency, its board shall provide for the  
12 disposition, division, or distribution of the agency's assets among  
13 the participating municipalities by such means as such board shall  
14 determine, in its sole discretion, to be fair and equitable.

15           Sec. 9. Section 84-1411, Revised Statutes Cumulative  
16 Supplement, 2006, is amended to read:

17           84-1411 (1) Each public body shall give reasonable  
18 advance publicized notice of the time and place of each meeting  
19 by a method designated by each public body and recorded in its  
20 minutes. Such notice shall be transmitted to all members of the  
21 public body and to the public. Such notice shall contain an  
22 agenda of subjects known at the time of the publicized notice  
23 or a statement that the agenda, which shall be kept continually  
24 current, shall be readily available for public inspection at the  
25 principal office of the public body during normal business hours.

1 Agenda items shall be sufficiently descriptive to give the public  
2 reasonable notice of the matters to be considered at the meeting.  
3 Except for items of an emergency nature, the agenda shall not  
4 be altered later than (a) twenty-four hours before the scheduled  
5 commencement of the meeting or (b) forty-eight hours before the  
6 scheduled commencement of a meeting of a city council or village  
7 board scheduled outside the corporate limits of the municipality.  
8 The public body shall have the right to modify the agenda to  
9 include items of an emergency nature only at such public meeting.

10 (2) A meeting of a state agency, state board, state  
11 commission, state council, or state committee, of an advisory  
12 committee of any such state entity, of an organization created  
13 under the Interlocal Cooperation Act, the Joint Public Agency Act,  
14 or the Municipal Cooperative Financing Act, of the governing body  
15 of a public power district having a chartered territory of more  
16 than fifty counties in this state, or of the governing body of  
17 a risk management pool or its advisory committees organized in  
18 accordance with the Intergovernmental Risk Management Act may be  
19 held by means of videoconferencing or, in the case of the Judicial  
20 Resources Commission in those cases specified in section 24-1204,  
21 by telephone conference, if:

22 (a) Reasonable advance publicized notice is given;

23 (b) Reasonable arrangements are made to accommodate the  
24 public's right to attend, hear, and speak at the meeting, including  
25 seating, recordation by audio or visual recording devices, and

1 a reasonable opportunity for input such as public comment or  
2 questions to at least the same extent as would be provided if  
3 videoconferencing or telephone conferencing was not used;

4 (c) At least one copy of all documents being considered  
5 is available to the public at each site of the videoconference or  
6 telephone conference;

7 (d) At least one member of the state entity, advisory  
8 committee, or governing body is present at each site of the  
9 videoconference or telephone conference; and

10 (e) No more than one-half of the state entity's, advisory  
11 committee's, or governing body's meetings in a calendar year are  
12 held by videoconference or telephone conference.

13 Videoconferencing, telephone conferencing, or  
14 conferencing by other electronic communication shall not be used  
15 to circumvent any of the public government purposes established  
16 in the Open Meetings Act.

17 (3) A meeting of the governing body of an entity formed  
18 under the Interlocal Cooperation Act, ~~or~~ the Joint Public Agency  
19 Act, or the Municipal Cooperative Financing Act or of the governing  
20 body of a risk management pool or its advisory committees organized  
21 in accordance with the Intergovernmental Risk Management Act may be  
22 held by telephone conference call if:

23 (a) The territory represented by the member public  
24 agencies of the entity or pool covers more than one county;

25 (b) Reasonable advance publicized notice is given which

1 identifies each telephone conference location at which a member of  
2 the entity's or pool's governing body will be present;

3 (c) All telephone conference meeting sites identified in  
4 the notice are located within public buildings used by members  
5 of the entity or pool or at a place which will accommodate the  
6 anticipated audience;

7 (d) Reasonable arrangements are made to accommodate the  
8 public's right to attend, hear, and speak at the meeting, including  
9 seating, recordation by audio recording devices, and a reasonable  
10 opportunity for input such as public comment or questions to  
11 at least the same extent as would be provided if a telephone  
12 conference call was not used;

13 (e) At least one copy of all documents being considered  
14 is available to the public at each site of the telephone conference  
15 call;

16 (f) At least one member of the governing body of the  
17 entity or pool is present at each site of the telephone conference  
18 call identified in the public notice;

19 (g) The telephone conference call lasts no more than one  
20 hour; and

21 (h) No more than one-half of the entity's or pool's  
22 meetings in a calendar year are held by telephone conference call.

23 Nothing in this subsection shall prevent the  
24 participation of consultants, members of the press, and  
25 other nonmembers of the governing body at sites not identified in

1 the public notice. Telephone conference calls, emails, faxes, or  
2 other electronic communication shall not be used to circumvent any  
3 of the public government purposes established in the Open Meetings  
4 Act.

5 (4) The secretary or other designee of each public body  
6 shall maintain a list of the news media requesting notification  
7 of meetings and shall make reasonable efforts to provide advance  
8 notification to them of the time and place of each meeting and the  
9 subjects to be discussed at that meeting.

10 (5) When it is necessary to hold an emergency meeting  
11 without reasonable advance public notice, the nature of the  
12 emergency shall be stated in the minutes and any formal action  
13 taken in such meeting shall pertain only to the emergency.  
14 Such emergency meetings may be held by means of electronic or  
15 telecommunication equipment. The provisions of subsection (4)  
16 of this section shall be complied with in conducting emergency  
17 meetings. Complete minutes of such emergency meetings specifying  
18 the nature of the emergency and any formal action taken at the  
19 meeting shall be made available to the public by no later than the  
20 end of the next regular business day.

21 (6) A public body may allow a member of the public or  
22 any other witness other than a member of the public body to appear  
23 before the public body by means of video or telecommunications  
24 equipment.

25 Sec. 10. Original sections 18-2420, 18-2422, 18-2425,

LB 199

LB 199

1 18-2436, and 18-2439, Reissue Revised Statutes of Nebraska, and  
2 sections 18-2410, 18-2427, 18-2438, and 84-1411, Revised Statutes  
3 Cumulative Supplement, 2006, are repealed.